

REMARKS

In response to the Requirement for Restriction dated August 20, 2008, Applicants submit as follows:

Applicants elect, with **traverse**, the species of non-morphological analytical testing (claims 40-43) for further prosecution in the present application on which claims 24-28, 32, 36-45, and 54 read. Further, the Examiner has identified independent claim 24 as generic, and made no comment regarding independent claim 25.

Applicants reserve the right to pursue the non-elected claims in a divisional application prior to issuance of a patent on the instant application.

ARGUMENTS

The Examiner asserts that the present applicants includes more than one species of the generic invention, and that the species are deemed to lack unity of invention under PCT rule 13.1 because they are not linked to form a single general inventive concept.

The Examiner has identified the following species:

1. Species of tissue section preparation (claims 29-35)
2. Species of non-morphological analytical testing (claims 40-43).
3. Species of treatment of biological molecules (claims 46-49).
3. Species of biological/cytological examination (claims 50-53).
4. Species using the method (claims 55-60).

According to rule PCT 13.1, "The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention")." Further, according to 37 CFR 1.475(a) "An international

and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept (emphasis added) ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art."

The Examiner has identified claim 24 as generic. Consequently, claim 24 embodies a single general inventive concept, which involves a method of analyzing a patient tissue sample to determine a fraction of diseased tissue while essentially preserving at least one of genomic property, proteomic property, epigenomic property and biophysical property of the tissue sample. Claims 27, 29, 31, 33, 34, 35, 36, 38, 40, 42, 44, 46, 47, 50, 52, 54, 55, 57, and 59, which depend from independent claim 24 further limit the above-recited general inventive concept.

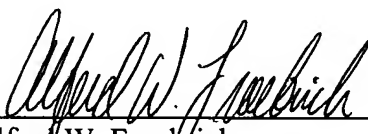
Independent claim 25 also involves a method of analyzing a patient tissue sample to determine a fraction of diseased tissue while essentially preserving at least one of genomic property, proteomic property, epigenomic property and biophysical property of the tissue sample. Claims 26, 28, 30, 32, 37, 39, 41, 43, 45, 48, 49, 51, 53, 56, 58, and 60, which depend from independent claim 25 further limit the above-recited general inventive concept.

Independent claims 24 and 25 recite similar method steps and, therefore, embody a single general inventive concept as described above.

For at least the reasons provided above, Applicants submit that the Requirement for Restriction is improper and should be withdrawn, and all claims should remain pending.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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